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RE FCN treaty ART 7. MISTEL 1886, MAR 10.

JAP desire delete "financial" activities creates obvious problem proper coverage banking and insurance. Apart GEN treaty principles, AMER banking and insurance circles plainly expect DEPT vigorously seek treaty protection their interests abroad.

JAP reasoning, moreover, puzzles DEPT as to how elimination bank lending WLD serve their implicit objective of preventing AMER acquisition and control JAP commercial and industrial enterprises. Bank loans only one of several methods by which control may be obtained. Right "control and manage" business enterprises is among basic objectives US treaty policy of assuring capital and businessmen non-discriminatory treatment in their ordinary affairs. Implicit JAP attitude CLD therefore create difficulty going to heart of treaty.

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ALTHO DEPT willing entertain reasonable accommodations in response special local circumstances, where need therefor clear, JAP attitude, taken literally, appears suggest accommodations impairing treaty integrity and going much beyond what DEPT can entertain. Mission therefore well advised seek airing and rectification JAP views prior their freezing a negotiating position. Mission SHLD emphasize that while DEPT wants a good treaty or none at all, it does not wish force any treaty provision upon JAP. DEPT considers its

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standard proposals fair and moderate, but only seeks their acceptance on free-will basis.

DEPT also puzzled as to how hostility bank loans WLD be consistent with presumed JAP need ~~foreign~~ FON capital to remedy domestic capital shortages, and treaty objective encouraging ~~foreign~~ FON investment. (Investment is a two-way street, of course, as witness DA 902, 909, MAR 6, regarding JAP access to Alaskan timber).

RE word "fiduciary", this word has very limited scope (e. g., acting as guardian of minor, trustee of estate, or executor of will) and thus not (rpt not) relevant to lending problem.

RE fear precedent vis-a-vis other countries. (See wording ART XII Greek treaty employed relieve similar Greek fear). This treaty is reciprocal treaty between US and JAP. US gets rights in JAP in return equal rights JAP in US. Treaty does not (rpt not) give any rights third countries in JAP but might constitute an excellent precedent as enunciating policies and principles RE treatment JAP expects her nationals receive abroad.

RE substitution Colombia treaty approach. This acceptable in principle if JAP strongly desire and same WLD facilitate NEGOTS.

ACHESON